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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,339	06/24/2003	Paul Jedrzejewski	020144-001512US	2522
20350	7590	11/02/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			SINES, BRIAN J	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/603,339

Applicant(s)

JEDRZEJEWSKI ET AL.

Examiner

Brian J. Sines

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18,19,34-43 and 56-61 is/are pending in the application.
- 4a) Of the above claim(s) 34-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18,19,38-43 and 56-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of group I comprising claims 18, 19, 38 – 43 and 56 – 61 in the reply filed on 8/15/2005 is acknowledged.

Claims 34 – 37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

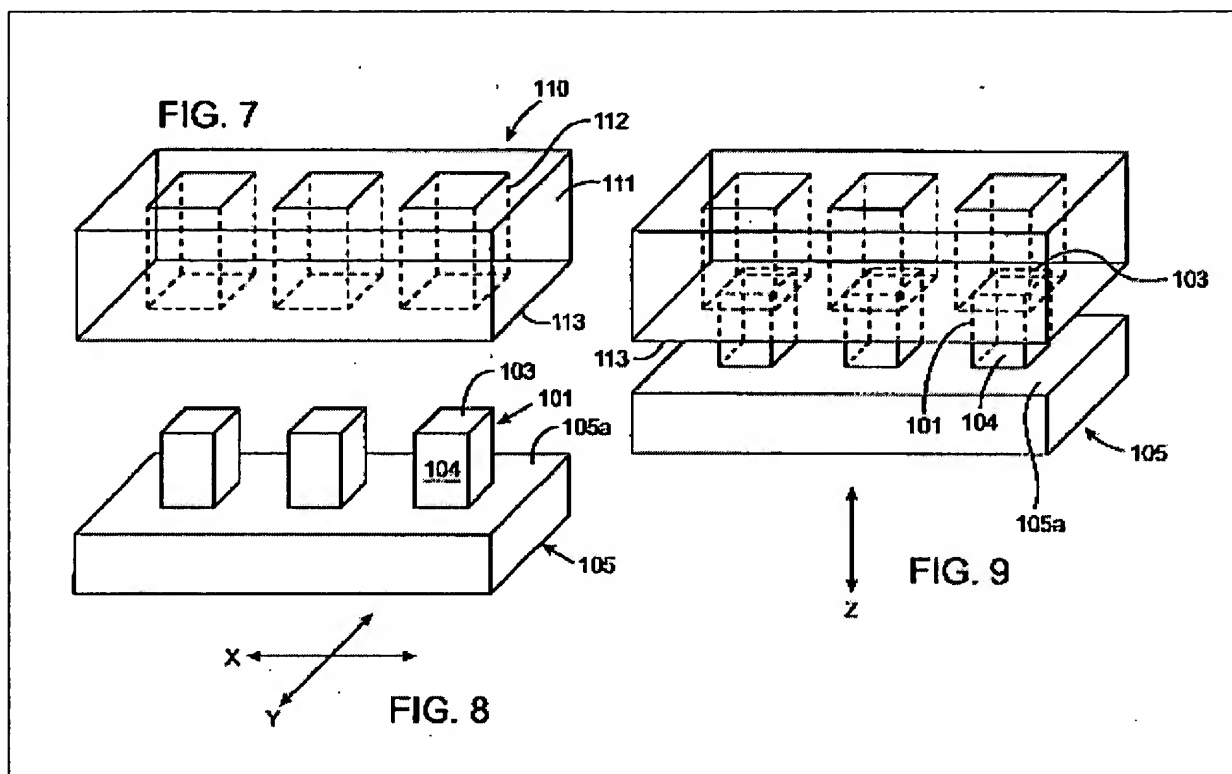
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 18, 19, 38 – 43 and 56 – 61 are rejected under 35 U.S.C. 102(e) as being anticipated by Indermuhle et al. (U.S. Pat. No. 6,720,157 B2) (hereinafter "Indermuhle").

Regarding claims 18 & 38 – 40, Indermuhle teaches a dispenser assembly comprising: a dispenser chip (110) comprising a vertical channel (112); and a sample chip (105) comprising a base and a sample structure comprising a pillar (101) and a sample surface (103), wherein the vertical channel of the chip is cooperatively structure to receive the pillar (see col. 16, line 3 –

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col. 17, line 43; figures 7 – 9). Indermuhle teaches the incorporation of a plurality of horizontal delivery channels (e.g., 143) and reservoirs (e.g., 142) (see figure 26, col. 23, lines 6 – 40).



Regarding claim 19, Indermuhle teaches the incorporation of a seal member (e.g., 120(b)) (see col. 19, lines 26 – 56; figures 10 – 12).

Regarding claims 41, 56 and 58, Indermuhle anticipates the use of silicon, glass or polymeric materials (see col. 7, line 55 – col. 8, line 15).

Regarding claims 42 and 43, Indermuhle anticipates hydrophilic and hydrophobic channel surface modification (see col. 5, lines 41 – 55; col. 8, line 58 – col. 9, line 11).

Regarding claims 57 and 59, Indermuhle teaches the incorporation of a capture reagent (see col. 8, lines 40 – 57).

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Regarding claim 60, Indermuhle teaches that the sample chip may comprise more than 100 pillars (see col. 12, lines 10 – 22).

Regarding claim 61, Indermuhle teaches that the pillars may have an aspect ratio greater than about 0.25 (see col. 8, lines 16 – 30).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Sines whose telephone number is (571) 272-1263. The examiner can normally be reached on Monday - Friday (11 AM - 8 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Brian J. Sines". The signature is stylized with a large, looping initial "B" and a long, sweeping underline.